



Massachusetts' 2006 Health Care Access and Affordability Legislation

Implications for Rhode Island Reform

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OBJECTIVES OF THE REPORT

This document is intended to provide a *preliminary* review of the Massachusetts health insurance reform legislation, focusing in particular on how this reform proposal might be applied to Rhode Island.

Specifically, it categorizes each component of the Massachusetts reform as follows:

- 1. Consistent with current legislative proposals**

Components which appear to be consistent with current legislative proposals in Rhode Island – that is, there is comparable legislation already proposed in Rhode Island;

- 2. Possible extensions of current proposals**

Components that appear to provide possible extensions of current proposals in Rhode Island – that is, the concept appears to be consistent with the direction of existing proposals; however, there is no similar proposed legislation in Rhode Island; or

- 3. Careful consideration required**

Careful consideration is required because these components would be a significant leap from existing proposals, and would likely require political consensus, significant resources and/or administrative infrastructure to implement such reforms. Such components would imply a commitment to universal coverage in Rhode Island.

OVERVIEW OF THE MASSACHUSETTS REFORM

Impetus for Reform

Pressure for action was driven by Federal Government threat to revoke Medicaid match. Significant Federal Medicaid funds are currently used to support safety net hospitals. CMS required that Massachusetts pass a reform plan to redirect these Federal funds (\$385 Million) to pay for insurance coverage (not direct provider support) – or risk losing these funds.

Reform Goals

- Universal coverage
- Relief for small group market using state negotiating leverage
- Reapply existing Medicaid funds

Key Components of Reform (details on following pages)

- Commercial market reforms
- New affordable products
- Individual and employer obligations
- Subsidized insurance

OVERVIEW OF THE MASSACHUSETTS REFORM

COMMERCIAL MARKET REFORMS

“Commonwealth Connector” acts as a “market maker” for individuals and small businesses (<50 employees):

- Certifies and offers products of high value and good quality
- Enrolls individuals, collects premiums, distributes funds to insurers
- Sets allowed producer commissions for certified plans
- Certified plans are eligible for pretax purchase and low income subsidy
- Operated as an authority under DOA, overseen by separate appointed board

Merged Small Group and Nongroup Markets

Groups would now be priced by plans using same underwriting rules and common claims experience. Proposes to drop Nongroup premiums by 24%. Effect on small group premiums to be determined.

Dependent Coverage Expansion

Requires family policies to maintain children up to age 25 or for two years past “loss of dependent status”, whichever occurs first.

Transparency

Requires the Health Care Quality & Cost Council to report cost and quality information by facility and provider. Insurers must submit data or face \$50,000 penalty. Less detail provided and no timetable on quality information.

NEW AFFORDABLE PRODUCTS

New Affordable Plan Specifications

Plans certified by the Connector must meet certain guidelines, which will be specified in regulation.

- Appears to *maintain* existing mandated benefits, but places a moratorium on new mandates
- The Connector shall also publish a “Schedule of Affordability”, based on a “percentage of income” spent on health insurance coverage to give guidance on required subsidy levels and maximum total premium cost to enforce the mandate

Young Adult Plan

Young adults, ages 19-26, who do not have access to employer-based coverage, will be eligible for lower cost, specially designed products offered through the Connector.

- Appears to provide some flexibility on mandated benefits
- Product specifications shall be defined in regulations promulgated by the Division of Insurance

OVERVIEW OF THE MASSACHUSETTS REFORM

INDIVIDUAL AND EMPLOYER OBLIGATIONS

Individual Responsibility

Requires all residents of the Commonwealth to obtain coverage by July 1, 2007.

Individuals without employer coverage will purchase through the Connector. DOR will enforce provision with financial penalties:

- Loss of personal exemption for 2007
- Increasing to a portion of what an individual would have paid toward an affordable premium

Employer Responsibility

Requires employers with more than ten employees who do not provide health insurance to pay \$295 per FTE per year (vetoed by Governor Romney, override anticipated).

Employer Free Rider

Surcharge imposed on employers who do not provide coverage, which have employees using free care.

- Imposed when an employee receives free care more than three times, or a company has five or more instances of employees receiving free care in a year

Employer Mandatory Offer of Section 125 plans

Section 125 plans allow employers to offer health insurance on a pre-tax basis.

Employers with more than ten employees are required to offer this pre-tax benefit.

OVERVIEW OF THE MASSACHUSETTS REFORM

SUBSIDIZED INSURANCE

Medicaid Expansion

Waiver to increase MassHealth eligibility for children, in families up to 300% FPL (from current 200%).

- Provides \$3 Million for enhanced outreach to reach people eligible for Medicaid but not yet enrolled

Not a limited benefit plan. Restores all MassHealth benefits cut in '02, including dental & vision. Creates a two year pilot for smoking cessation treatment for MassHealth enrollees.

Commonwealth Care

Low wage worker subsidy - individuals earning <300% FPL and ineligible for MassHealth will qualify:

- Premiums set on a sliding scale based on HH income, with no premium if under 100% FPL
- Subsidized products exclusively offered by the four Medicaid health plans (two are DSH hospital-based plans)
- Subsidized products must be certified by the Connector, and there will be no deductibles

Medicaid Provider Rate Relief

Provides \$270 MM in rate relief over three years to acute hospitals & physicians (15% targeted to physicians). Establishes a process of tying rate increases to specific performance goals.

IMPLICATIONS for RHODE ISLAND REFORM

MASSACHUSETTS REFORM COMPONENTS THAT ARE CONSISTENT WITH CURRENT LEGISLATIVE PROPOSALS IN RHODE ISLAND

- **New, affordable plan designs** for small businesses and individuals
 - Similar proposals under consideration in Rhode Island, in which cost reductions are achieved through benefit design and reduced plan administration
- **Subsidy for low-wage workers**
 - Current proposal in Rhode Island would support low-wage small firms. Unlike Massachusetts, this proposal is capped and not tied to Medicaid
- **Health care cost and quality transparency**
 - Proposals in Rhode Island call for plans to disclose, rather than for state to collect and disclose
- **Dependent coverage expansion**
 - Similar proposals under consideration in Rhode Island

MASSACHUSETTS REFORM COMPONENTS THAT ARE POSSIBLE EXTENSIONS OF CURRENT PROPOSALS IN RHODE ISLAND

- **Merged Nongroup and Small Group markets**
 - Effect in Rhode Island would be to lower rates for individual market and raise them slightly for small group. Facilitated in Rhode Island by closely regulated groups and small number of insurers
- **Health Insurance Connector** to negotiate for and certify plans eligible for individual and small group purchase. Connector structure would provide individuals with access to insurance using pretax dollars AND facilitate a low-wage worker subsidy
 - Rhode Island would need to locate this function relative to other state health insurance purchasing and regulatory efforts. Also would require state-based analytical capacity.
 - Would require that RI employers be obligated to offer Section 125 plans.

IMPLICATIONS OF THE RHODE ISLAND REFORM

CAREFUL CONSIDERATION REQUIRED: MASSACHUSETTS REFORM COMPONENTS WHICH IMPLY A COMMITMENT TO UNIVERSAL COVERAGE

- **Financing Coverage for Low-wage Individuals:** Medicaid expansion, employer and individual penalties, reduction in benefits – how to make the dollars work without creating significant new obligations for the state?
 - Unlike Massachusetts, Rhode Island does not have Medicaid dollars in its system, which the Federal Government is looking to reconsider
 - There remains a gap between scope of benefits we want and what individuals can afford*. Massachusetts legislation does not fully address this
- **Individual and Employer Obligations**
 - Would require political consensus and discussion of details
- **Young Adult Plans:** What is the best way to match ability to pay with benefit coverage?
 - Less critical in Rhode Island – more low-cost plan options are available to “healthy” young adults (those who pass medical underwriting) through direct pay vs. Massachusetts Nongroup market
- **Medicaid provider rate relief:** Pressure in Massachusetts driven by need to redirect funds currently used to support safety net hospitals.
 - No parallel pressure exists here in Rhode Island

Additional detail on each of these components of the Massachusetts proposal, and the implications for Rhode Island reform, is provided in the pages that follow.

* If 10% of income is a generally accepted standard of affordability, that would require a family with an income of \$60,000 to pay \$500 per month for coverage. However, the average family plan costs ~\$1,000. How do we address this gap?

DETAILED BREAKDOWN OF MASSACHUSETTS REFORM

Commercial Market Reforms

Commonwealth Health Insurance Connector

*Current Status in RI? **NONE**. Possible extension of current RI Proposals.*

- Acts as a “Market Maker” – defines the market for small group and individual insurance. As such, the Connector shall:
 - Certify and offer products of high value and good quality
 - Enroll individuals, collect all premiums, distribute funds to insurers
 - Enter into binding agreements with participating employers. Employed individuals (not eligible for employer sponsored coverage) will be allowed to purchase insurance *directly* using pretax dollars (via Section 125 plans)
 - Determines producer commission rates for “Connector Certified” plans, to be paid by the carriers

These powers presumably create significant Connector power in negotiating “Connector Certified” plan designs and rates offered to small employers.

- Administers the Commonwealth Care subsidy program, and remits premium payments to participating health plans
- Operates as an Authority under Department of Administration & Finance (A&F), chaired by the Secretary of A&F, overseen by a separate appointed board. Funded by a surcharge on all Connector health benefit plans. Subject to biennial audit by the state auditor

Merged Small Group and Nongroup Markets

*Current Status in RI? **NONE**. Possible extension of current RI Proposals.*

- Merges the non & small group markets in July 2007
- Proposes to drop Nongroup premiums by 24% (*Small Group premiums effect TBD*)
- Modified community rating allows for rate adjustment for a variety of factors, including group size, eligible individual rather than small group, wellness program rate, tobacco use
- Actuarial study to be completed before the merger to assist insurers in planning for the transition
- Multiple other smaller changes to rating rules are included

DETAILED BREAKDOWN OF MASSACHUSETTS REFORM

Commercial Market Reforms *(Continued)*

Dependent Coverage Expansion

*Current Status in RI? **LEGISLATION PROPOSED.** Consistent with Current Proposals in RI.*

Requires family policies to maintain children up to age 25 or for two years past "loss of dependent status", whichever occurs first.

Transparency

*Current Status in RI? **LEGISLATION PROPOSED.** Consistent with Current Proposals in RI.*

Requires the newly established Health Care Quality and Cost Council to report, in a web-based format, cost and quality information by facility, provider.

By January, 2007, the site shall include "comparable cost information" by facility, and, as applicable, by clinician or physician group practice for OB, office visits, high-volume elective surgical procedures, high-volume diagnostic tests and high-volume therapeutic procedures.

Cost information must include the "average payment" for each service. Cost information shall be aggregated for all insurers. Insurers must submit data or face up to \$50,000 penalty.

Quality information requirements and timelines are considerably less specific – Council must develop quality goals and measures.

DETAILED BREAKDOWN OF MASSACHUSETTS REFORM

New Affordable Products

New Affordable Plan Specifications

*Current Status in RI? **LEGISLATION PROPOSED.** Consistent with Current Proposals in RI.*

- The Commonwealth Connector will certify and offer products of high value & good quality, with “Connector Seal of Approval”
- “Creditable Coverage,” shall meet the following plan specifications:
 - Appears that state mandates are included – however, there is a moratorium on any new mandates until comprehensive study is completed
 - Appears that all existing plan design requirements apply, except that plans “shall not be required to meet health care delivery network design provisions in any other law or regulation”
 - Allows for deductibles up to the maximum contribution allowed for a federally established HSA – up to \$2,700 (individual)/\$5,750 (family)
- Commonwealth Connector shall publish a “Schedule of Affordability” to be used in enforcing the individual mandate based on “percentage of income” which an individual could be expected to contribute toward the purchase of coverage
- The individual mandate provision requires all adults to purchase “Creditable Coverage” as long as that coverage can be purchased at an affordable price as defined by the “Schedule of Affordability”. However, legislation provides little guidance on how to achieve the necessary plan design savings – this guidance is left to regulation

Young Adult Plan, for 19-26 year olds

*Current Status in RI? **NONE.** Careful consideration required: implying a commitment to universal coverage.*

- Adults (ages 19-26) who do not have access to employer-based coverage, will be eligible for lower cost, specially designed products through the Connector
- Product specifications shall be defined in Division of Insurance regulation
- Appears to allow more flexibility in plan design requirement beyond “Creditable Coverage” requirements described above – suggests mandate flexibility
- Bill provides the following guidance regarding plan design: Shall include “reasonably comprehensive coverage...,” may impose “reasonable” cost sharing, and may use “tiered provider networks and selective provider contracting”

DETAILED BREAKDOWN OF MASSACHUSETTS REFORM

Individual and Employer Obligations

Individual Responsibility

*Current Status in RI? **NONE**. Careful consideration required: implying a commitment to universal coverage.*

- Requires that all residents of the Commonwealth must obtain health insurance coverage by July 1, 2007. Residents will confirm that they have coverage on their state income tax forms filed in 2008
- Individuals who are not eligible for employer-sponsored coverage would purchase insurance directly using pretax dollars through the connector. Employer mandate to establish Section 125 plans (even if don't offer insurance) facilitates this pretax purchase
- DOR will enforce this provision with financial penalties beginning with loss of the personal exemption for tax year 2007, then increasing to a portion of what an individual would have paid toward an affordable premium for subsequent years
- The Board of the Connector will ensure the availability of "Affordable" product options. Affordability will be defined in a "Schedule of Affordability" based on percentage of income which an individual could be expected to contribute toward the purchase of health insurance coverage

Employer Fair Share

*Current Status in RI? **LEGISLATION PROPOSED**. Careful consideration required: implying a commitment to universal coverage.*

- Requires employers with more than ten employees who do not provide health insurance to pay \$295 per FTE per year

DETAILED BREAKDOWN OF MASSACHUSETTS REFORM

Individual and Employer Obligations *(Continued)*

Employer: Free Rider

*Current Status in RI? **NONE**. Careful consideration required: implying a commitment to universal coverage.*

- This surcharge will be imposed on employers who do not provide health insurance and whose employees use free care.
- Imposed when an employee receives free care more than three times, or a company has five or more instances of employees receiving free care in a year
- Surcharge will range from 10-100% of state's costs of services provided to the employees, with the first \$50,000 per employer exempted
- Budget impact unknown
- Data intensive requirement – requires detailed reporting by employer

Employer: Mandatory Offer of Section 125 Plans

*Current Status in RI? **NONE**. Possible extension of current RI proposals.*

- Section 125 plans allow employers to offer health insurance on a pre-tax basis. By establishing such a tax sheltering plan, the employee can contribute pre-tax dollars for health insurance even if there are no employer contributions
- Employers with more than ten employees are required to offer this pre-tax benefit to employees

DETAILED BREAKDOWN OF MASSACHUSETTS REFORM

Subsidized Insurance

Medicaid Expansions

*Current Status in RI? **NONE**. Careful consideration required: implying a commitment to universal coverage.*

- Increases MassHealth eligibility for children, in families up to 300% FPL (from current level of 200% FPL)
- Provides \$3 Million for comprehensive community-based outreach programs to reach people who are eligible for Medicaid but not yet enrolled
- Not a limited benefit plan design. Restores all MassHealth benefits that were cut in 2002, including dental and vision services, and creates a two year pilot program for smoking cessation treatment for MassHealth enrollees

Commonwealth Care

*Current Status in RI? **NONE**. Careful consideration required: implying a commitment to universal coverage.*

- Individuals who earn less than 300% of FPL and are ineligible for MassHealth will qualify for coverage
- Premiums set on a sliding scale based on household income – no premium if under 100% FPL
- Subsidized products must be certified by the Connector as high value and good quality. There will be no deductibles
- The program will be operated through the Connector, and will retain any employer contribution to an employee's health insurance premium
- Commonwealth Care will be offered **exclusively** by the four managed care organizations who participate in the Medicaid program – two of which are DSH hospital based plans.
- This exclusivity is critical – it allows the state to meet the federal requirement to redirect federal funds from direct provider payments toward a program for covering the uninsured (the key driver of the reform effort), while still protecting the DSH hospitals. However, it may also fragment the insurance pool, and create longer-term state financial exposure.

Subsidized Insurance *(Continued)*

Provider rate relief for Medicaid

*Current Status in RI? **NONE**. Careful consideration required: implying a commitment to universal coverage.*

- Provides an annual increase of \$90 Million per year for the next three years (total of \$270 Million), to acute hospitals and physicians, with 15% targeted to physicians
- This increase in Medicaid payment rates was critical – another plan component that helped the state to meet the federal requirement to redirect federal funds from direct provider payments toward a program for covering the uninsured (the key driver of the reform effort), while still protecting the DSH hospitals.
- Establishes a process of tying rate increases to specific performance goals
- Creates a MassHealth Policy Advisory Board to review and evaluate Medicaid rates and rate methodologies